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10 **THE UNITED STATES BANKRUPTCY COURT**
11 **EASTERN DISTRICT OF CALIFORNIA**
12 **SACRAMENTO DIVISION**

13 In re:

14 **DIANE M. WEBSTER,**

15 Debtor.

16 SSN#: XXX-XX-1292
17 10382 Nations Circle
Stockton, CA 95209

Case No.: 07--23105-D-7

DC NO.: KJL - 2

Chapter 7

Date: September 14, 2010
Time: 9:32 a.m.
Place: 501 I Street, 6th Fl.
Courtroom 32
Sacramento, CA 95814
Judge: Hon. Thomas C. Holman

18 **TRUSTEE'S MOTION FOR AUTHORITY TO**
19 **SELL UNSECURED PROMISSORY NOTE**

20 Michael D. McGranahan, Chapter 7 Trustee ("Trustee") of the Estate of Diane M.
21 Webster ("Debtor"), hereby respectfully requests Authority to Sell Unsecured Promissory Note
22 as follows:

23 1. A Voluntary Petition was filed on April 30, 2007 as a Chapter 7 case. Trustee was
24 duly appointed Chapter 7 Trustee of the Estate of the Debtors on May 1, 2007.
25 2. The Court has jurisdiction over this matter under 28 U.S.C. §§ 1334 and 157.
26 3. This is a core proceeding under 28 U.S.C. § 157(b)(2)(A), (N), and (O). This Motion
27 is brought pursuant to 11 U.S.C. § 363(b), and Fed.R.Bankr.P. Rules 2002(a)(2) and 6004.

1 4. By this Motion, the moving party requests that the provisions of Fed.R.Bankr.P.
2 Rule 6004(g) be waived so that the sale is not subjected to the ten day stay.

3 5. Among the assets of this Estate is a Promissory Note ("Note"), whereby Debtor is
4 listed as the beneficiary and the borrowers are Brian K. Webster and Jennifer R. Webster
5 ("Borrowers"). A true and correct copy of the Note is being filed concurrently herewith as
6 Exhibit "A," and is incorporated herein by reference.

7 6. The Note is dated February 5, 2009, and has a face value of \$63,000.00. The Note
8 states that it is secured by a Deed of Trust dated March 8, 2001 and recorded March 23, 2001
9 as instrument No. 01040712, San Joaquin County Records, California. However, after due
10 diligence and reasonable inquiry, I discovered the Note is in fact unsecured.

11 7. Currently, the remaining balance of the Note is approximately \$23,450.00.

12 8. Borrowers Brian K. Webster and Jennifer R. Webster have made an offer to
13 purchase the Estate's interest in the Note for a total of \$5,000.00 cash. A true and correct
14 copy of the offer is being filed concurrently herewith as Exhibit "B," and is incorporated herein
15 by reference.

16 9. The Note shall be sold "As Is."

17 10. The offer was based on the remaining balance of the Note.

18 11. Borrowers have made a good-faith deposit of \$1,000.00 to Trustee. The deposit
19 becomes non-refundable upon the filing date of Trustee's Motion for Authority to Sell
20 Unsecured Promissory Note. The remaining balance shall be due and payable in cash or
21 cash equivalent no later than five days after the Bankruptcy Court's entry of an order
22 approving the sale of the Note.

23 12. The sale is subject to approval by the Bankruptcy Court.

24 13. Trustee has considered any tax implications of the sale, and has determined that
25 there will be no adverse income tax consequences from the sale.

26 14. There are no contingencies to the offer other than as set forth herein.

27 15. The Trustee asserts that good business judgment supports the proposed sale.

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2 WHEREFORE Trustee prays:

3 A. That the Court issue an order authorizing the sale of the Unsecured
4 Promissory Note to Borrowers;

5 B. For an order authorizing the sale of the Unsecured Promissory Note, with
6 the sale proceeds to be held with other funds of the Estate pending further order of this Court;

7 C. For an order authorizing Trustee to execute any and all documents
8 reasonably necessary to effectuate the sale of the Unsecured Promissory Note;

9 D. For the ten day stay provision of Fed.R.Bankr.P. Rule 6004(g) to be
10 waived; and

11 E. For such other and further relief as the Court deems just and proper.

13 Dated: July 16, 2010

KENNETH JORGENSEN LAW

14 P.C.

16 Bv: /s/

17 Kenneth J. Jorgensen
18 Attorney for Trustee